

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE LITIGATION

) MDL No. 1456

) Master File No. 01-12257-PBS

) Judge Patti B. Saris

THIS DOCUMENT RELATES TO:

State of California, *ex rel.* Ven-A-Care v.

Abbott Laboratories, *et al.*

01-cv-12257-PBS and 03-cv-11226-PBS

STATE OF CALIFORNIA'S AND *QUI TAM* PLAINTIFFS'  
STATUS REPORT-JANUARY 1, 2006

The undersigned counsel, on behalf of plaintiff STATE OF CALIFORNIA ("CALIFORNIA") and *qui tam* plaintiff VEN-A-CARE OF THE FLORIDA KEYS, INC. ("VEN-A-CARE" or "*qui tam* plaintiff"), hereby submit the attached Status Report to the Court in accordance with the Court's June 17, 2004 Procedural Order.

Respectfully submitted,

BILL LOCKYER

Attorney General for the State of California

Dated: December 29, 2005

By: 

NICHOLAS N. PAUL

CA State Bar No.: 190605

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Dated: December 29, 2005

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**Attorneys for *Qui Tam* Plaintiff,  
VEN-A-CARE OF THE FLORIDA KEYS, INC.**

**MDL 1456 Status Report**  
**State of California, *ex rel.* Ven-A-Care v. Abbott Laboratories, Inc., *et al.***  
**01-cv-12257-PBS and 03-cv-11226-PBS**

**First Amended Complaint in Intervention**

Plaintiff State of California ("California") filed a First Amended Complaint In Intervention on August 25, 2005.

**Motion to File Unredacted Exhibits Under Seal**

On August 25, 2005, plaintiff California filed a motion for leave to file unredacted exhibits under seal. Redacted versions of such exhibits were filed (and served on existing parties through Verilaw) on August 25, 2005, along with the First Amended Complaint In Intervention. The Court granted the motion, and the unredacted exhibits have been filed under seal.

**State of California's Election to Decline**

On September 9, 2005, California filed a motion for leave to file "State of California's Election to Decline as to Certain Defendants and Allegations" ("Election to Decline") under seal. The Court granted the motion on September 14, 2005. The Election to Decline was filed under seal on September 14, 2005.

**Qui Tam Plaintiff's Notice of Election/Dismissal**

On or about September 12, 2005, the *qui tam* plaintiff filed a motion for leave to file its "Notice of Election to Proceed and Notice of Dismissal" ("Notice of Election/Dismissal") under seal. The Court granted the motion, and the Notice of Election/Dismissal was filed under seal on September 14, 2005.

**Case Management Order (CMO) 18**

On December 13, 2005, the Court issued CMO 18, which provides a briefing schedule for the served Defendants' motion(s) to dismiss, as well as rules regarding the conduct of discovery

and document access during the period required to brief and adjudicate the motion(s) to dismiss.

**Anticipated Filings**

California anticipates filing its opposition to the motion(s) to dismiss within 45 days after electronic service of the motion(s). As noted in previous status reports, California may file additional motions/pleadings, under seal when necessary, to dispose of the state's interests in matters remaining under seal. The Relator will file its Amended Complaint with respect to the remaining Defendants and claims that have not been dismissed and on which the State has thus far declined to intervene.

**CERTIFICATE OF SERVICE**

I, Nicholas N. Paul, hereby certify that on December 29, 2005, I caused a true and correct copy of the foregoing, **STATE OF CALIFORNIA'S AND *QUI TAM* PLAINTIFFS' STATUS REPORT-JANUARY 1, 2006**, to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

Dated: December 29, 2005

A handwritten signature in black ink, appearing to read 'N. Paul', is written over a horizontal line.

NICHOLAS N. PAUL  
Supervising Deputy Attorney General